IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITIION NO.1895 OF 2006

Ramnarayan Rajput .. Petitioner.

vs.

State of Maharashtra

& Ors. .. Respondents.

Mr. G.D. Upadhyay i/by Law Global for petitioner.

Smt. S.D. Shinde, APP for the respondents.

CORAM : J.N. PATEL, AND

SMT. ROSHAN DALVI, JJ.

DATE : 5th October, 2006.

P.C.

. Heard.

2. The petitioner has approached this Court seeking directions of this Court in the nature of writ of mandamus directing that the complaint made by the petitioner on 20.2.2004 be got investigated by CBI or State CID by taking cognizance of the complaint and till then all further proceedings concerning C.R. No. 131 of 2003 be stayed.

3. The petitioner has come with the allegation

that the officers of the Kurla Police Station and Malad Police Station forcibly recovered gold and other articles from the petitioner by forcibly detaining him in police custody where he was physically and mentally assaulted and tortured.

4. The learned APP after seeking instructions states that the petition should not be entertained on two grounds. Firstly, the petition has been filed in the year 2006 whereas the case registered against the petitioner is of the year 2003. It is further contended that no such grievance was made after the petitioner was arrested along with other co-accused in the case and produced before the learned Magistrate for remand or at any stage thereafter. The whole attempt on the part of the petitioner is to scuttle the ongoing trials which have almost come to a conclusion. It is submitted that the petitioner is being prosecuted along with the co-accused in Sessions Case No. 669 of 2003 and Sessions Case No. 768 of 2003 in the Court of Sessions, Greater Mumbai.

5. We have examined the petition and find that the grievance made by the petitioner against the police officer is not supported by any material placed on record except for some complaints lodged against them almost after a period of one year i.e. on 20.2.2004 with respondent no. 3 and respondent

no. 4. Further, as rightly pointed out by the learned APP, the petitioner has approached this Court after three years when the trial in the two cases is almost concluded. There is nothing placed on record to show that at any stage the petitioner made a grievance before the learned Magistrate at the earliest opportunity available to the petitioner when he was produced for seeking remand. In the facts and circumstances of the case, the Court will not be in a position to direct CBI or State CID to investigate the matter due to lapse of time. As such, the petition is dismissed with liberty to seek alternative remedy.

(J.N. Patel, J.)

(Smt. Roshan Dalvi, J.)